

REMARKS

In the final Office Action, claims 17, 27, 30, 146 and 174 are allowable.

Claims 29 and 32 are objected to for depending from withdrawn claims.

Claims 101 and 125 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 115, 135, 165 and 175-178 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Non-elected claims 1-16, 20, 21, 23, 25, 54-56, 58, 60, 62, 75, 77, 79, 81, 89-100, 108-111, 121-124, 130-133, 136-139, 144, 151-154, 158-163, and 166-173, are herein cancelled without prejudice. Claims 29, 32, 115, 135, 165 and 178 are also herein cancelled without prejudice to solely accelerate the prosecution of the case. Applicants expressly reserve a right to pursue the cancelled claims in divisional/continuation applications.

Claim 101 is herein amended. No new matter has been introduced by the amendment.

Claims 17, 27, 30, 101, 125, 146 and 174-177 are pending in the case.

Reconsideration of the present application in view of the foregoing amendments and the remarks below is respectfully requested.

Claim Objections

Claims 29 and 32 are objected to for depending from withdrawn claims.

Claims 29 and 32 are herein cancelled.

Accordingly, the objections of claims 29 and 32 are now moot.

Claim Rejections under 35 U.S.C. § 112

(1) Claims 101 and 125 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Office Action states that “[i]t is unclear whether the formulation comprises a DNA or an antigenic protein encoded by the DNA.”

Claim 101 is herein amended, as suggested by the Examiner, to read, in a relevant portion, “a nucleic acid molecule comprising at least 8,000 contiguous nucleotides of the nucleotide sequence of SEQ ID NO:15, or a complement thereof, encoding a SARS antigen;”

Accordingly, Applicants respectfully request that the rejections of claims 101 and 125 under 35 U.S.C. § 112, second paragraph, as being indefinite, be withdrawn.

(2) Claims 115, 135, 165 and 175-178 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claims 115, 135, 165 and 178 are herein cancelled without prejudice.

Accordingly, the rejections of these claims are now moot.

With regard to claims 175-177, the Office Action states that “[i]t is noted that Applicant has deposited the isolated hSARS virus (p. 60 of the specification), but there is no indication in the specification as to public availability.”

Applicants herewith submit a statement by the attorney of record, stating that the specific biological material, *i.e.*, the isolated hSARS virus, has been deposited under the Budapest Treaty and that the biological material will be irrevocably and without restriction or condition released to the public upon the issuance of a patent.

Further, Applicants respectfully submit that the present specification contains under Section 7. DEPOSIT at page 60: (1) The accession number for the deposit; (2) The date of the deposit; (3) A description of the deposited biological material sufficient to specifically identify it and to permit examination; and (4) The name and address of the depository, pursuant to 37 C.F.R. § 1.809(d).

Accordingly, Applicants respectfully request that the rejections of claims 175-177 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement, be withdrawn.

In view of the foregoing amendments and the remarks, Applicants believe that all pending claims are now in condition for allowance, an early notification of which is earnestly requested.

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Respectfully submitted,

By 

Charles E. Miller

Registration No.: 24,576

DICKSTEIN SHAPIRO LLP

1177 Avenue of the Americas

41st Floor

New York, New York 10036-2714

(212) 277-6500

Attorney for Applicant

Attachment: "Statement Regarding Deposit under Budapest Treaty".